

"(h) Notwithstanding subsections (b)(2), and (c) through (g), a local educational agency may use funds received under this section to carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) in accordance with the requirements of such part."

Mr. LOTT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 59 TO AMENDMENT NO. 58

(Purpose: To provide all local educational agencies with the option to use the funds received under section 307 of the Department of Education Appropriations Act, 1999, for activities under part B of the Individuals with Disabilities Education Act)

Mr. LOTT. I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] for Mr. JEFFORDS, proposes an amendment numbered 59 to amendment No. 58.

The amendment is as follows:

In the pending amendment, strike all after the word "IDEA" and insert the following:

Section 307 of the Department of Education Appropriations Act, 1999, is amended by adding after subsection (g) the following:

"(h) Notwithstanding subsections (b)(2), and (c) through (g), a local educational agency may use funds received under this section to carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) in accordance with the requirements of such part."

(i) This section shall become effective 1 day after enactment of this Act.

#### MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Members permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE EDUCATION FLEXIBILITY BILL

Mr. LOTT. Mr. President, if I could briefly comment on the process we just went through and where we are with regard to this bill, Ed-Flex, the education flexibility bill, that is the underlying bill. It has broad bipartisan support. The President is for it. He had suggested we should pass it last year. We did not get it done, but he went before the National Governors' Association and called again for this legislation and says that he supports it. The National Governors' Association—all 50 of the Governors—supported a resolution in support of this bill, education flexibility.

Twelve States have this flexibility now. My State is not one of those. It has been working quite well, I understand, in Massachusetts and in Maryland and other States where they now have this option in those 12 States. The rest of us want it.

I just came from Chester, PA, earlier today, and Pennsylvania does not have this education flexibility. They would like to have it. They desperately would like to have it. The Governor of that State said: Please, give me this option. Let's waive some of this paperwork and the regulatory requirements. Let's have this option so we can give schools the flexibility, at the local level, to make these decisions to where the funds can best be used but results based. We need to see the proof that it actually is working. And all of that is included in this legislation.

But in spite of that broad bipartisan support that we wanted to continue to show with this legislation, we now see there is a raft of amendments developing that would undermine or stop or add to, explode this legislation. I have asked the Members on this side of the aisle to try to withhold a whole number of amendments.

We started off the first week—last week or the week before last—with a very broad bill in support of our military men and women. The Soldiers', Sailors', Airmen's and Marines' Bill of Rights passed overwhelmingly. I believe that if we can get to a direct vote on Ed-Flex to waive this bureaucratic redtape that the vote would probably be 98-2 or 100-0. But now we see, with all these amendments being offered, and with us having no option but to add amendments of our own, with support for the special education commitment being fulfilled that we have not done, that this legislation now is being bogged down.

We see that the first bill of the year that has broad bipartisan support is now approaching gridlock. Let's don't do that. Free the Ed-Flex bill. Let's let this bill go. There will be other opportunities for Democrats and Republicans to offer their ideas on education on other bills this year. We have the reauthorization of the Elementary and Secondary Education Act coming up. There will be plenty of opportunities to offer that. I would like for us to have another day or 2 to discuss the underlying bill and then vote. Let's get it done. I think it is good that we are having an education debate even on those issues that we might not have agreement, but let's find a way to move this legislation through.

I have encouraged the Members, the Senators that are involved with this, to come up with some recommendations of how maybe we could have a limited number of amendments and then go on to final passage. But again, I call on Senators to free this important legislation. Let's give these other States this opportunity. Let's see if we can't get more decisions made at the local level and give them the option to decide whether this money should go for teachers or to repair roofs or technology for computers—whatever it may be. But in one school, perhaps, they need a greater emphasis on excellence in reading; in another school maybe they don't have a single computer in the classrooms.

Let's give them the option, the flexibility to use these Federal funds without Federal Government mandates that you must use it here, you must use it there. I think the American people would support that. I know the Governors do. We say we do. Let's find a way to get this legislation passed.

I urge the leaders and the managers of the legislation to see if they can come up with some ways to get this bill completed in the next 2 days. But for now we will have a cloture vote on Tuesday. We will have at least one cloture vote, I guess maybe two, on Wednesday. And maybe in the interim we can find a way to get an agreement to provide for final passage.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I appreciate very much the statement of the majority leader on the issue that is before us, the Ed-Flex legislation. If you look back over the history, it was officially initiated by an amendment by the Senator from Oregon, Senator Hatfield, and myself. It was initially provided that six States were going to have the power of waiver, and then when we considered the Goals 2000 we added six more States.

So many of us on this side are very familiar with the legislation, are very familiar with the record that has been made, and are in support of the kind of accountability that the majority leader has stated. We are eager to see this legislation move towards completion. But we want to point out too, as the majority leader knows, that the underlying legislation may very well be the major opportunity for debate on education this year. Because the Elementary/Secondary Education Act does not expire until next year, it may very well not be up at that time.

We will have a chance to express a sense of the Senate on the budget items. We will look forward to debating appropriations. That is generally the last piece of legislation that comes here in October. But this may very well be the only serious debate on education for the whole year. That is why, given the fact that there is not an extensive or busy calendar, given the importance of the issue—education—to families all over the country, and given the timeliness of the particular issue—the Murray amendment in terms of giving assurances to local communities all across the country—it is imperative that we have an opportunity for the Senate to address this issue in a brief way. Senator MURRAY has indicated her willingness to enter into a reasonable time limit to move toward a disposition of that legislation and that particular amendment.

I just finally remind our colleagues that our leader, Senator DASCHLE, had indicated that he would urge short time limits on as few as five or six amendments. I would think that Senator DASCHLE might even be able to get

a reduction to maybe even four amendments, even though there are many Members here who have plans and believe they are important. We could dispose of all of this in the period of a day, if not a day and a half.

It seems to me that it is not unreasonable to say that on this issue which is of central importance and significance to families all across this country—the issue over partnership, the Federal Government working with the States and local communities—that we address the issue of class size, and we also address the very important issue of the funding of the IDEA.

I think we can find very, very broad support for making sure that local communities are going to have the funding for IDEA, but I also think if put to a vote we would have a strong majority of Republicans and Democrats in favor of giving the communities across this country some help and assistance in terms of class size. That is something that every parent understands. It is something every teacher understands and every student understands.

No one makes that case better than the former school board member and former teacher herself, Senator MURRAY. I welcome the chance to hear her on this issue.

The PRESIDING OFFICER. The Senator from the State of Washington.

Mrs. MURRAY. Thank you, Mr. President.

Let me thank the Senator from Massachusetts for his statement. He has been a strong supporter of education. He understands that on this issue of class size reduction, parents, families, community members, police, mayors, school board members have all stood behind us and said this will make a difference for young children's learning.

I remain baffled by the majority leader not allowing us to simply offer the amendment with an up-or-down vote. We are more than willing to have a time agreement, a short time agreement, and move this bill along.

We all know that Ed-Flex has been asked for by 50 Governors. Well, reducing class size has been asked for by thousands of parents. It has been bipartisan—maybe it is not anymore; it certainly was last fall—a bipartisan initiative to reduce class size. I still believe that is true. It is timely, again, as school boards are looking at those budgets. If we can come to an agreement that will allow us to have an up-or-down vote, I am happy to offer my amendment. I will stay tonight; I can be here tomorrow morning.

Let me conclude by saying it is frustrating to be told no and no and no time and time again when we want to offer an amendment. I am beginning to feel like one of those kids in one of those large classes who has been told by the teacher time and again, "You have to wait." When that happens, you get frustrated, you start to think of other things to do. You can become a discipline problem. I don't want to be,

but I will tell my colleagues that we want to offer this amendment, we want an up-or-down vote, and as long as we are told we can't move ahead with it, we will think of other things to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, first, let me comment on the remarks of the Senator from Washington.

First of all, this bill is a very simple bill to help the Governors have flexibility—the States to have flexibility to maximize the utilization of title I funds, in particular. I don't think anybody disagrees with it.

What I have set out as a policy for me, working with the leader, is that this bill ought not to be encumbered by matters which are under the jurisdiction of the committee which should be considered separately and after due hearing and after all of the elements of the legislation are considered. The amendment of the Senator from Washington really shortcuts that.

Now, I agree that is an existing piece of legislation which needs some improvement. However, it does not fall out from the jurisdiction of the committee. On the other hand, with an appropriate amendment, I will endorse it. So I don't understand the concern of my partners on the other side of the aisle.

We have an offer which will be before the Senate, and this side can endorse her amendment with the modification that is in that amendment. What that modification does is say, all right, let's reach a compromise here. The compromise would be, very simply, let the local governments decide whether they want to use the money which was appropriated but not quite available; they should have the local option. If they want to spend it on more teachers, additional teachers, they should have that option. If they want to spend it on IDEA, which I think most of the communities would do, they would have that option.

I don't see why you can say that we are placing ourselves in a position of preventing the amendment from going forward. I don't want to do that.

Let's also take a look at the problems of this committee. This committee has huge jurisdiction. The Elementary and Secondary Education Act spends about \$15 billion, and amendments that have been addressing this bill would bypass the committee's ability to review all of these programs, which we should do. We haven't done so for 5 years, and the education of this country is suffering badly from not being able to maximize the opportunities for our young people.

We have already had several hearings. We will have more hearings on it, and in the orderly process we ought to take those amendments up and vote on them at that time, but not now when we are just starting the legislative session.

We will have an opportunity for the Senate to vote on an excellent amend-

ment to the amendment of the Senator from Washington and give this body an opportunity to express itself. It will be, apparently, filibustered. I don't understand why or how anybody could filibuster an option for the local communities to decide whether they want to use it for new teachers or for special education.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2077. A communication from the Under Secretary for Oceans and Atmosphere, Department of Commerce, transmitting, pursuant to law, the Department's report on the activities of the Northwest Atlantic Fisheries Organization for 1998; to the Committee on Commerce, Science, and Transportation.

EC-2078. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the Office's report on the Federal government's use of voluntary consensus standards during fiscal year 1997; to the Committee on Commerce, Science, and Transportation.

EC-2079. A communication from the Director of the National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Final List of Fisheries for 1999; Update of Regulations Authorizing Commercial Fisheries Under the Marine Mammal Protection Act" (I.D. 070798F) received on March 1, 1999; to the Committee on Commerce, Science, and Transportation.

EC-2080. A communication from the Director of the National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Taking of Marine Mammals Incidental to Commercial Fishing Operations; Pacific Offshore Cetacean Take Reduction Plan Regulations; Technical Amendment" (I.D. 042798B) received on March 1, 1999; to the Committee on Commerce, Science, and Transportation.

EC-2081. A communication from the Director of the National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations" (I.D. 031997C) received on March 1, 1999; to the Committee on Commerce, Science, and Transportation.

EC-2082. A communication from the Deputy Assistant Administrator for Fisheries,